

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

**TOWN OF TUNNELTON,
a West Virginia Municipal Corporation,**

Plaintiff,

v.

Civil Action No. 1:11-cv-00202-FPS

**CSX TRANSPORTATION, INC.,
a Virginia corporation,**

Defendant.

FINAL ORDER

Came the Plaintiff, Town of Tunnelton (hereinafter "Tunnelton"), by its counsel, Thomas R. Michael, and the Defendant, CSX Transportation, Inc. (hereinafter "CSXT"), by its counsel, Andrew S. Zettle of the law firm Huddleston Bolen LLP, and advised the Court that all matters in controversy between them in this civil action have been settled and resolved by agreement; and said parties jointly moved that the Court by order implement terms of such settlement by dismissing with prejudice the claims asserted by Tunnelton against CSXT; by dismissing with prejudice CSXT's counterclaim against Tunnelton for monetary damages and the other claims of CSXT against Tunnelton in the Subject Civil Action for any claim for damages to CSXT property as a result of acts occurring prior to April 4, 2012, but dismissing without prejudice any other claims of CSXT; by directing that the mediation fee of James M. Wilson of the law firm of Steptoe & Johnson PLLC be split equally between the parties; and by directing that Tunnelton and CSXT shall each bear its own attorney fees, mediation fees, expert witness fees, costs, and other expenses of this litigation. The Court, having considered the representations of the parties and the papers and pleadings of record, and there being no objection; the Court is of the opinion to, and does hereby grant such joint motion.

It is accordingly **ADJUDGED, ORDERED, and DECREED** that the claims asserted herein by Tunnelton against CSXT are dismissed with prejudice as to all matters declared upon.

It is further **ORDERED, ADJUDGED, and DECREED** that CSXT's counterclaim against Tunnelton for monetary damages and the other claims of CSXT against Tunnelton in the Subject Civil Action for any claim for damages to CSXT property as a result of acts occurring prior to April 4, 2012, are dismissed with prejudice; and that any other claims of CSXT are dismissed without prejudice.

It is further **ORDERED, ADJUDGED, and DECREED** that the mediation fee of James M. Wilson of the law firm of Steptoe & Johnson PLLC be split equally between the parties.

It is further **ORDERED, ADJUDGED, and DECREED** that Tunnelton and CSXT shall each bear its own attorney fees, mediation fees, expert witness fees, costs, and other expenses of this litigation.

It is further **ORDERED** that this matter be removed from the active docket of this Court.

All of which is **ADJUDGED, ORDERED, and DECREED** accordingly.

Dated this 18th day of May, 2012.

ENTER: /s/ Frederick P. Stamp, Jr.

Judge

Submitted by:

Thomas R. Michael

Thomas R. Michael
Counsel for Plaintiff, Town of Tunnelton

Andrew S. Zettle

Andrew S. Zettle
Counsel for Defendant, CSX Transportation, Inc.